

## Czechia

### Czech Investment Incentives Act (2015)

*Official translation*

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# Czech Investment Incentives Act

Act No. 72/2000 Coll., on investment incentives in wording of Act. No. 84/2015 Coll., (in effect from May 1, 2015) and selected provisions of Act No. 586/1992 on income taxes, as amended, Act No. 435/2004 on employment, as amended, Act No. 280/2009 - the Tax Code, as amended, and Act No. 338/1992 on real estate tax, as amended

## Part I. Investment Incentives Act

### Section 1

1) Following on from the directly applicable Regulation of the European Union for granting regional investment aid and aid for employment and education this Act shall govern the general conditions for granting investment incentives, the procedure to be followed in the granting of investment incentives and the exercise of related state administration for the purpose of supporting economic development and the creation of jobs on the territory of the Czech Republic.

2) The Ministry of Industry and Trade (hereinafter referred to as the “Ministry”) shall comply with the reporting obligation for the provision of investment incentives under this Act arising for the Czech Republic from the directly applicable Regulation of the European Union.

### Section 1a. Definition of basic terms

1) For the purposes of this Act the following definitions shall apply:

a. an investment incentive shall mean state aid in the form of:

b. an investment project shall mean:

c. the commencement of work relating to the implementation of an investment project shall mean:

d. a strategic investment project shall mean:

e. expansion of production shall mean an increase in production capacity, the diversification of production through the addition of new products or a fundamental change on the overall production process;

f. a technology centre shall mean a business plant or its part, focussing on applied research, development and innovation of technically advanced products, technologies and manufacturing

processes, including the creation and innovation or their software intended for use in production and to increase value added;

g. a software development centre shall mean a business plant or its part, focussing on the development of new, or the innovation of existing, software;

h. a repair centre shall mean a business plant or its part, focussing on the repair of technically advanced equipment, particularly office machines and computing equipment, electronic machinery and devices, radio, television and communications equipment and devices, optical and measuring instruments, aircraft and electronic and control systems for rolling stock, excluding the repair of cars, buses and the repair of mechanical parts of vehicles intended for ground transport;

i. a shared services centre shall mean a business plant or its part, focussing on taking over the management, operation and administration of internal operations such as accounting, finance, human resources, marketing or the management of information systems, from a controlling or controlled person or from contractual partners, for whom these activities are not the subject-matter of their business, with the exception of building security, printing, catering or cleaning services or services of a similar nature;

j. a data centre shall mean a business plant or its part, focussing on the storage, sorting and management of data using its computer systems and their related components;

k. a customer support centre shall mean a business plant or its part focussing on managing relations and communications with customers through electronic communications networks;

l. a strategic services centre shall mean a centre for software development, a repair centre, a shared services centre, a data centre or a customer support centre, where the services provided by the centre extend over the territory of at least 2 countries;

m. a new job shall mean a job created in direct relation to an investment project, resulting in an increase in the number of jobs compared to the average of the past 12 months immediately preceding the calendar month, in which the application form to obtain an investment incentive was submitted pursuant to Section 3 para. 1, and which is occupied by an employee who has agreed to work for an indefinite period and is a citizen of the Czech Republic or a national of another European Union Member State or a family member thereof.

2) This Act shall not apply to tourism services, recreational, cultural and sporting services, nor to health and social services, transport and shipping services, distribution, logistics, postal and courier services, consulting and advisory services, banking, real estate, leasing services, audiovisual or direct marketing services, services related to environmental protection and employment agency services.

#### **Section 1b**

1) A concessionary industrial zone is an industrial zone designed to promote the balanced and dynamic economic development of the country, proposed by the Ministry and approved by the Government.

2) The Ministry shall propose concessionary industrial zones to the Government on the basis of an on-going analysis of vacant plots in the existing industrial zones supported by the State, and taking account of current economic developments in the individual regions of the Czech Republic.

#### **Section 2**

1) Legal entities or natural persons may be granted investment incentives if they prove that they are able to comply with the general conditions laid down in this Act and the specific conditions laid down in special legal regulations and conditions laid down in the directly applicable legislation of the European Union. Investment incentives for investment projects with eligible expenditure of over 100,000,000 EUR may only be granted on condition the investment project was allowed through an individual exemption from the prohibition on state aid imposed by the European Commission (hereinafter referred to as the "Commission").

2) The general conditions shall constitute:

- a. the implementation of an investment project on the territory of the Czech Republic;
- b. the environmental friendliness of the project, structures or facilities;
- c. the commencement of work relating to the implementation of an investment project after the date of submission of the application form to obtain an investment incentive pursuant to Section 3 paragraph 1;
- d. compliance with conditions pursuant to paragraphs 3 to 5 for a maximum of up to 3 years from the issuance of a Covenant Award Decision pursuant to Section 5 paragraph 4 or Section 5a.

3) General conditions for investment projects in the area of manufacturing are also:

- a. the allocation of funds into sectors of the manufacturing industry;
- b. the acquisition of long-term tangible and intangible assets pursuant to Section 6a paragraph 1 (a) worth at least CZK 100,000,000, where no less than CZK 50,000,000 must be expended on the acquisition of machinery, intended for manufacturing purposes, acquired at market price and which was not produced more than 2 years prior to its acquisition;
- c. the creation and filling of at least 20 new jobs;
- d. the launch of production.

4) General conditions for investment projects in the area of technology centres are also:

- a. the acquisition of long-term tangible and intangible assets pursuant to Section 6a paragraph 1 (b) point 1 worth at least CZK 10,000,000, where no less than CZK 5,000,000 must be expended on the acquisition of machinery, acquired at market price and which was not produced more than 2 years prior to its acquisition;
  - b. the creation and filling of at least 20 new jobs.
- 5) A general condition for investment projects in the area of strategic services centres is also the creation and filling of at least 20 new jobs in the case of software development centres and data centres, or the creation and filling of at least 70 new jobs in the case of repair centres and shared services centres, or the creation and filling of at least 500 new jobs in the case of customer support centres.
- 6) The amounts laid down in paragraph 3 (b) and paragraph 4 (a) do not include payments under an agreement on the assignment of use of an asset prior to the acquisition of property rights.
- 7) If the application form to obtain investment incentives shows that the entire investment project in the area of manufacturing is to be implemented in a district where at the time the application form is submitted the level of unemployment is at least 50% higher than the average rate of unemployment in the Czech Republic as reported in the statistics of the Ministry of Labour and Social Affairs for the previous two half-year periods, or on the territory of state-supported regions as defined by the Government in accordance with a special legal regulation, or on the territory of concessionary industrial zones, the Ministry shall reduce the amount set out in paragraph 3 (b) to one half. The other conditions set out in paragraph 3 above shall remain unchanged.
- 8) If the investment incentives pursuant to Section 1a paragraph 1 (a) points 1 to 4 and 6 are defrayable costs, which are at the same time covered by investment incentives pursuant to Section 1a paragraph 1 (a) point 5, these costs can be covered up to the amount of the maximum rate of state aid pursuant to Section 6 paragraph 1.
- 9) Investment incentives pursuant to Section 1a paragraph 1 (a) point 2 may only be granted to a person who has launched a business in connection with the investment project.

### **Section 3**

- 1) A legal entity or natural person may be an applicant for investment incentives (hereinafter referred to as the “applicant”). The applicant shall submit an application form to obtain investment incentives pursuant to paragraphs 3 to 6 (hereinafter referred to as “documentation for the grant of investment incentives”). The applicant shall submit documentation for the grant of investment incentives either in paper form and, at the same time, in electronic form on the specified technical data medium, or in electronic form, to the organisation established by the Ministry (hereinafter referred to as the “designated organisation”). The prescribed form is included as an annex to this Act.
- 2) The applicant shall include in the application form:
- a. in the case of a legal entity, the applicant’s identification data, which consists of the statutory body or member of the statutory body of the legal entity, indicating the manner in which it may act in its name, identification data of persons who dispose of 20% or more of the voting rights, or who have a commercial share amounting to 20% or more of equity capital or, in the case of a controlled person, the identification of the company or the title or name and family name of the controlling person and the country in which its registered office is located;
  - b. the main scope of business, the size of the applicant, information on the contact person authorised to act on behalf of the applicant in proceedings under this Act, selected economic information on the applicant and information on the number of employees classified under the Czech Republic and European Union Member States for the past three accounting or tax periods;
  - c. information on the investment project, its location, the date of its launch and completion and the manner of its financial, staffing and material security;
  - d. information on the environmental impact of the investment project;
  - e. information on the forms of investment incentives requested;
  - f. information on additional aid requested or provided for the investment project;
  - g. information on eligible costs;
  - h. information on other investment projects implemented during the three years preceding the date on which the application form to obtain investment incentives was submitted on the territory of a district by the applicant or by persons regarded as a single business group pursuant to a directly applicable regulation of the European Union regulating de minimus aid;
  - i. the amount of state aid requested.
- 3) The applicant shall attach to the application form:
- a. in the case of a legal entity, the founding charter or an officially certified copy thereof, the articles of association, if they are not the founding charter, and an extract from the Commercial Register. A foreign entity shall attach documents of a similar nature;
  - b. in the case of a natural person, a business licence, where the natural person is incorporated in the Commercial Register, an extract from the Commercial Register; a foreign person shall attach

Commercial Register, an extract from the Commercial Register, a foreign person shall attach documents of a similar nature.

4) The applicant shall also attach to the application form:

a. an affidavit that:

b. a confirmation by the relevant authority that it has no tax arrears recorded in its records, has no arrears in social security insurance or contributions to the state unemployment policy, including fines and has no arrears in public health insurance payments, including fines; this confirmation may not be more than 2 months old and must correspond to the actual situation as at the date the application is submitted;

c. a description of the method of financing the investment project;

d. a description of the investment project;

e. the organisational structure of the business group, if the applicant is part of one.

5) If the applicant is to be at the same time the beneficiary of an investment incentive, it will also attach to the application form a document waiving the obligation to maintain confidentiality vis-à-vis the Ministry under the tax rules for employees in the Financial Administration Authority of the Czech Republic and employees in the Ministry of Finance for the purposes of inspections pursuant to Section 7 paragraph 1 and a special legal regulation, within the scope of data documenting compliance with the general conditions pursuant to Section 2 paragraph 2 (c) and (d), Section 2 paragraph 3 (b) and Section 2 paragraph 4 (a), the requirements pursuant to Section 6a paragraphs 2, 3 and 6, as well as data on the amount of the investment incentive granted pursuant to Section 1a paragraph 1 (a) points 1 and 6.

6) A foreign person may submit the company's founding charter and the articles of association, if these are not the founding charter, in English.

7) In the case of an investment project in the area of technological centres or an investment project in the area of strategic services centres, the applicant shall make a choice of eligible costs in the application form, in accordance with Section 6a paragraph 1 (b).

#### **Section 4**

1) The designated organisation shall prepare an assessment of the documentation for the grant of investment incentives and submit it to the Ministry within at the latest 30 days from the day of their submission. The assessment shall state whether the applicant is able to comply with the general and special conditions, whether it concerns a strategic investment project or an investment project with eligible costs of over EUR 100,000,000, and evaluates whether the investment project presented in the application form complies with the directly applicable regulation of the European Union. Compliance of the investment project with the directly applicable regulation of the European Union shall not be evaluated in the case of an investment project with eligible costs of over EUR 100,000,000. If the assessment indicates that the applicant is able to comply with both the general and special conditions for granting investment incentives and that the investment project presented in the application form complies with the directly applicable regulation of the European Union with the exception of investment projects with eligible costs of over EUR 100,000,000, a proposal to grant an investment incentive shall be attached to the assessment. It shall specify in the proposal to grant an investment incentive the form of investment incentive that may be provided, the amount and the conditions under which they shall be applicable. If it ensues from the assessment that the applicant is unable to comply with the general and special conditions, or the investment project presented in the application form does not comply with the directly applicable regulation of the European Union with the exception of an investment project with eligible costs of over EUR 100,000,000, the designated organisation shall attach to the assessment a

proposal to refuse to grant an investment incentive.

2) If it ensues from the assessment, in accordance with paragraph 1 above, that this may concern a strategic investment project, the Ministry shall submit to the Government a proposal to approve this investment project as a strategic investment project before issuing a decision on the offer to grant an investment incentive (hereinafter referred to as a “decision on an offer”) in accordance with paragraph 5 or a Covenant Approval Decision pursuant to Section 5a; the deadline for the issuance of a decision on the offer pursuant to paragraph 5 or a Covenant Approval Decision pursuant to Section 5a shall be suspended until such time as the Government has issued its approval.

3) If it ensues from the assessment, in accordance with paragraph 1 above, that this concerns an investment project with eligible costs of over EUR 100,000,000, the Ministry shall submit to the Commission a request for an individual exemption from the prohibition on state aid before issuing a decision on the offer, pursuant to paragraph 5 or a Covenant Approval Decision pursuant to Section 5a. The deadline for the issuance of a decision on the offer pursuant to paragraph 5 or a Covenant Approval Decision pursuant to Section 5a shall be suspended until such time as the Commission has issued a decision.

4) The Ministry of Labour and Social Affairs, the Ministry of Finance, the Ministry of Agriculture and the Ministry of Environment (hereinafter referred to as the “affected authority”) shall assess compliance with the general and special conditions for granting investment incentives and within 30 days of receipt of the documentation pursuant to paragraph 1 above shall issue a binding opinion, in which it shall approve or reject the provision of investment incentives. In the event the affected authority requires additional documentation before granting the investment incentive, the deadline for the issuance of a binding opinion shall be suspended and shall be extended by the period needed to supplement this documentation. The municipality or region, which owns the land on which the investment project will be implemented (hereinafter referred to as the “land owner”), shall issue a binding opinion, in which it shall express its approval or refusal of the grant of an investment incentive pursuant to Section 1a paragraph 1 (a) point 2 within 60 days of receipt of a request by the Ministry. The municipality on whose cadastral territory the investment project will be implemented (hereinafter referred to as the “municipality”), shall issue a binding opinion, in which it shall express its approval or refusal of the grant of an investment incentive pursuant to Section 1a paragraph 1 (a) point 6 within 60 days of receipt of a request by the Ministry. If a negative opinion has not been issued pursuant to this paragraph within the deadline, it shall be assumed that a positive opinion has been issued; unless approval was granted within the deadline specified in the third or fourth sentence above, it shall be assumed that the land owner or the municipality has not given its approval.

5) The Ministry shall issue a decision on an offer, including the conditions governing the drawdown of the investment incentive, within 30 days of the deadline pursuant to paragraph 4 based on an assessment of the documentation for the grant of investment incentives and opinions delivered within the deadline set out in paragraph 4 above, or shall issue a decision to refuse the grant of an investment incentive. The Ministry may not issue a decision on an offer if any of the affected authorities has issued a negative opinion. If the land owner has issued a negative opinion, the Ministry shall not provide an offer of investment incentives pursuant to Section 1a paragraph 1 (a) point 2. If the municipality has issued a negative opinion, the Ministry shall not provide an offer of investment incentives pursuant to Section 1a paragraph 1 (a) point 6. A decision on an offer or a decision rejecting the grant of an investment incentive shall be sent by the Ministry through the designated organisation, with a copy sent to the affected authorities, and if they have expressed an opinion on the grant of an investment incentive, also to the land owner and the municipality.

## **Section 5**

1) An applicant for an investment incentive (hereinafter referred to as the “applicant”) may submit an application for an investment incentive covenant to the Ministry through a designated organisation on the basis of a decision on an offer within a maximum of three months from the date on which the application for an investment incentive covenant was delivered.

The applicant may be a legal entity which will implement the investment project for which the decision on an offer was issued, which was not established more than 6 months prior to the date on which the application for an investment incentive application was submitted and where the applicant owns 100% of the registered capital of this entity.

2) An application for an investment incentive covenant submitted by the applicant shall contain the applicant’s consent to the investment incentive and the conditions specified in the decision on an offer.

3) The applicant shall attach the following to the application for an investment incentive covenant:

- a. an extract from the Commercial Register, which may not be more than three months old and shall correspond to the actual situation as at the date of submission of the application for a covenant;
- b. an affidavit by the applicant confirming the accuracy of the information relating to the investment project presented in the documentation for the grant of investment incentives; and
- c. a waiver of the confidentiality obligation pursuant to Section 3 paragraph 5.

- 4) The Ministry shall issue a Covenant Approval Decision within 30 days of receipt of the application pursuant to paragraph 1 above.
- 5) The Covenant Approval Decision shall contain:
  - a. the identification of the applicant for an investment incentive;
  - b. the forms of the investment incentive granted;
  - c. the conditions regulating the application of the investment incentive;
  - d. the maximum intensity and amount of state aid; and
  - e. the conditions under which the state aid is provided;
  - f. a contingent mechanism to provide compensation between different forms of investment incentives.
- 6) At the request of the applicant, the Ministry shall cancel the Covenant Approval Decision for that applicant, provided the applicant has not yet started to draw on the investment incentive.
- 7) The Ministry shall send a counterpart of the completed Decision pursuant to paragraphs 4 or 6 to the affected authorities, the local tax authority, and, if they have expressed an opinion on the grant of an investment incentive, also to the land owner and the municipality.

#### **Section 5a**

If the applicant is also the beneficiary of the investment incentive, the Ministry shall examine the documentation for the grant of investment incentives and assess opinions received by the deadline laid down in Section 4 paragraph 4 and within 30 days of expiry of the deadline pursuant to Section 4 paragraph 4 shall issue a Covenant Approval Decision pursuant to Section 5 or a decision refusing to grant an investment incentive. The Ministry may not issue a Covenant Approval Decision if any of the affected authorities has issued a negative opinion. If the land owner has issued a negative opinion, the Ministry shall not provide an offer of investment incentives pursuant to Section 1a paragraph 1 (a) point 2. If the municipality has issued a negative opinion, the Ministry shall not provide an offer of investment incentives pursuant to Section 1a paragraph 1 (a) point 6.

#### **Section 6**

- 1) The maximum intensity of state aid for an investment project is the proportion of the amount of state aid granted in the form of investment incentives, with the exception of investment incentives pursuant to Section 1a paragraph 1 (a) point 4, to eligible costs, expressed as a percentage and established in accordance with the implementing legal regulation.
- 2) The maximum amount of state aid for an investment project is the absolute amount calculated from the expected eligible costs contained in the application form pursuant to Section 3 with respect to the stipulated maximum intensity of state aid.
- 3) The permissible amount of state aid in individual regions of the Czech Republic, which may not be exceeded, is laid down in the implementing legal regulation.
- 4) Areas in which no investment incentive may be provided are stipulated in a directly applicable regulation of the European Union.
- 5) An investment incentive may not be provided if the beneficiary of the investment incentive has not settled the return of such support that the Commission has decided to be unlawful or incompatible with the internal market.

#### **Section 6a**

- 1) Eligible costs are costs incurred after the date of submission of an application form for the grant of an investment incentive pursuant to Section 3 paragraph 1, which relate to the investment project and for which no state aid has previously been granted and for which the beneficiary maintains separate records; eligible costs consist of:
  - a. in the case of an investment project in the area of manufacture, the value of long-term tangible assets in the form of machinery pursuant to Section 2 paragraph 3 (b) and also the value or part of the value of long-term tangible assets in the form of land or buildings or long-term intangible assets purchased at market price from persons other than associates, up to the value of the machinery included in the eligible costs. Only assets acquired before the expiry of 5 years from the date of issue of the Covenant Approval Decision or, in the case of a strategic investment project, before the expiry of 7 years from the issue of a Covenant Approval Decision, may be included in eligible costs. The following may not be included as eligible costs:

- b. in the case of an investment project in the area of technological centres or an investment project in the area of strategic services centres as chosen by the applicant

- 2) The beneficiary of an investment incentive, for whom eligible costs consist of costs pursuant to paragraph 1 (a) or (b) point 1, is required to retain long-term tangible and intangible assets for which the investment incentive was granted, in the scope corresponding to the actual amount of aid drawn thus far, but at least in an amount and structure that satisfies the general conditions pursuant to Section 2 paragraphs 3 to 5, even after the period of application of the investment incentive pursuant to Section 1a paragraph 1 (a) point 1 or 6, but at least for a period of five years from the completion of the investment project, and to maintain jobs pursuant to Section 2 paragraphs 3, 4 or 5 and to fill these positions with employees with fixed weekly working hours after the period of application of the investment incentive pursuant to Section 1a paragraph 1 (a) point 1 or 6, but at least for 5 years from the date of first recruitment for each position. After completion of an investment for which a Covenant Approval Decision was issued, the beneficiary is required, without undue delay, to notify the Ministry that the investment project has been completed and the scope thereof. In the event it fails to do so before the expiry of 5 years from the date of issue of the Covenant Approval Decision, or in the case of a strategic investment project before the expiry of 7 years from the date of issue of the Covenant Approval Decision, a five-year period for the maintenance of long-term tangible and intangible assets will begin on the first day following the day on which five years have passed since the date of issue of the Covenant Approval Decision or, in the case of a strategic investment project on the first day following the day on which seven years have passed since the date of issue of the Covenant Approval Decision.
- 3) The beneficiary of an investment incentive, for whom eligible costs consist of the value of wage costs pursuant to paragraph 1 (b) point 2, is required to maintain jobs and to fill these positions with employees with fixed weekly working hours, for which the investment incentive was granted, in the number corresponding to the actual amount of aid drawn thus far, but at least in a number that satisfies the general conditions pursuant to Section 2 paragraph 4 (b) and Section 2 paragraph 5, even after the period of application of the investment incentive pursuant to Section 1a paragraph 1 (a) point 1 or 6, but at least for a period of five years from the date of first recruitment for each subsidised job, and, in the case of a technology centre, also to retain long-term tangible and intangible assets pursuant to Section 2 paragraph 4 (a) after the period of application of the investment incentive pursuant to Section 1a paragraph 1 (a) point 1 or 6, but at least for five years from the date of compliance with the conditions laid down in Section 2 paragraph 4 (a).
- 4) The replacement of assets due to their destruction, malfunction or obsolescence by assets that are of equal or greater value, serve the same purpose and are an eligible cost pursuant to paragraph 1 shall also be considered to comply with the obligation to maintain long-term tangible and intangible assets.
- 5) The beneficiary of an investment incentive pursuant to Section 1a paragraph 1 (a) point 3 is required to maintain the number of new jobs and to fill these positions with employees with fixed weekly working hours, for which the investment incentive pursuant to Section 1a paragraph 1 (a) point 3 was drawn, for a period of at least five years from the date on which the first payment of material support was received on the account of the beneficiary of an investment incentive. In the event a newly created job has not been filled on the day the first payment of material support is received on the account of the beneficiary of an investment incentive, the period stipulated in the first sentence above shall start to run for this job from the day on which it is filled.
- 6) An investment project assessed for the purpose of granting state aid must be implemented in such a way that at least 25% of the total amount of investment must be financed by funds that do not contain any element of state aid.
- 7) In the case of a strategic investment project, within 3 years of the issue of a Covenant Approval Decision for the investment incentive:
  - a. in the case of an investment project in the area of manufacture:

b. in the case of an investment project in the area of technological centres:

8) Neither the aid beneficiary, or the provider or providers may exceed the maximum amount of state aid for an investment project specified in Section 6 paragraph 2. Should the beneficiary receive state aid exceeding the maximum amount of state aid, it is required to return the proportion of the state aid that exceeded the maximum permissible amount of state aid for a given investment project and to pay a penalty in an amount determined by the budgetary rules, but at least in the amount of the interest set by the Commission at the date of issue of the Covenant Approval Decision. The Ministry shall carry out continuous inspections to ensure that the maximum intensity and amount of state aid are not exceeded during the period of application of the investment incentive. The Ministry shall submit to the Commission a report on the evaluation of investment incentives in accordance with a directly applicable regulation of the European Union; in addition, at the request of the Ministry, the beneficiary of an investment incentive shall provide information on the status of implementation of the investment project and the actual amount of support drawn.

9) In the case of an investment incentive pursuant to Section 1a paragraph 1 (a) point 2 or 5, the investment incentive shall cease shall have effect on failure to comply with:

- a. obligations pursuant to paragraph 2, with the exception of the obligation to notify the Ministry of the completion of the investment project and the scope thereof;
- b. the obligation pursuant to paragraphs 3 or 6;
- c. the obligation to provide, upon request, information on the status of implementation of the implementation project and the actual amount of support drawn, as stipulated in paragraph 8;
- d. the general conditions pursuant to Section 2 paragraph 2; or
- e. the obligation pursuant to paragraph 7 in the case of an investment incentive pursuant to Section 1a paragraph 1 (a) point 5.

in this case the beneficiary of the investment incentive shall pay the value of the state aid thus provided to the provider of the investment incentive, including a penalty in the amount of the interest set by the Commission and the amount of the aid provided from the date of issue of the Covenant Approval Decision to the date on which the state aid was returned.

10 ) In the event the obligations stipulated in paragraph 5 are not satisfied, the beneficiary of the investment incentive pursuant to Section 1a paragraph 1 (a) point 3 shall return a proportion of the investment incentive obtained that corresponds to the number of newly created jobs that have not been maintained, in accordance with the budgetary rules.

11) Failure to comply with the general conditions laid down in Section 2 paragraph 2 or failure to comply with the obligations laid down in paragraph 2, with the exception of the obligation to notify the Ministry of the completion of the investment project and the scope thereof, or paragraphs 3 or 6, or failure to comply with the obligation to provide, upon request, information on the status of implementation of the investment project and the actual amount of support drawn as stipulated in paragraph 8, the Covenant Approval Decision shall cease to have effect and everything that was obtained in the form of an investment incentive must be returned, or paid, including an appropriate penalty or other sanctions in accordance with special legal regulations, but at least in the amount of the interest set by the Commission on the date of issue of the Covenant Approval Decision. If it is found that the special conditions have not been satisfied, the procedure set out in a special legal regulation shall be followed.

12) Should the beneficiary of an investment incentive wish to take part in a merger, division or transfer of assets to a shareholder as a business corporation being wound down and want to transfer the rights and obligations arising from the Covenant Approval Decision to its legal successor, it is required to request the Ministry's approval of the transfer of the rights and obligations arising from the Covenant Approval Decision before publishing information on the planned merger, division or transfer of assets to a shareholder and to specify in the request the legal successor to which the rights and obligations arising from the Covenant Approval Decision are to be transferred. The Ministry, in coordination with the affected authorities, shall assess whether the purpose for which the investment incentive was granted has been maintained, and whether the conditions for the grant of an investment incentive have been satisfied. In the case of a positive assessment, it shall issue a decision consenting to the transfer of the rights and obligations arising from the Covenant Approval Decision and shall specify the person to whom the rights and obligations arising from the Covenant Approval Decision are to be transferred. No rights or obligations arising from the Covenant Approval Decision may be transferred without such consent and the business corporation being wound down is required to proceed in accordance with paragraphs 9 to 11.

## **Section 7**

1) Special legal regulations shall apply to inspections of the application of investment incentives and to

the consequences of violations of the conditions under which the investment incentive was granted. The competent administrative authorities shall cooperate in these inspections and provide each other with the information needed to conduct the inspections; while at the same time respecting provisions regulating confidentiality.

2) Inspections shall be carried out by:

- a. the Ministry in the case of investment incentives referred to in Section 1a paragraph 1 (a) points 2 and 5, for the general conditions referred to in Section 2 paragraph 2 (a) and (d) within the scope of compliance with conditions pursuant to Section 2 paragraph 3 (a), (c) and d), Section 2 paragraph 4 (b) and Section 2 paragraph 5 and for the obligation to maintain newly created jobs pursuant to Section 6a paragraphs 2 and 3;
  - b. the Ministry of Environment in the case of the general conditions referred to in Section 2 paragraph 2 (b);
  - c. the Labour Office of the Czech Republic – General Directorate in the case of investment incentives referred to in Section 1a paragraph 1 (a) points 3 and 4 and the Labour Office of the Czech Republic – regional office and office for the Capital City of Prague in the case of the obligations stipulated in Section 6a paragraph 5;
  - d. the Ministry of Finance and the Tax Office in the case of investment incentives referred to in Section 1a paragraph 1 (a) points 1 and 6 and in the case of the general conditions referred to in Section 2 paragraph 2 (c) and (d) within the scope of compliance with conditions pursuant to Section 2 paragraph 3 (b) and Section 2 paragraph 4 (a), for the obligation to retain long-term tangible and intangible assets pursuant to Section 6a paragraphs 2 and 3 and for the obligations stipulated in Section 6a paragraph 5.
- 3) The appropriate bodies are obliged to carry out an inspection pursuant to paragraph 2 (a) and (d) at the latest three years after the issue of a Covenant Approval Decision, with the exception of inspections of compliance with the conditions referred to in Section 6a paragraphs 2 and 3 and investment incentives pursuant to Section 1a paragraph 1 (a) point 5.

4) Inspections into compliance with the condition to retain long-term tangible and intangible assets pursuant to Section 6a paragraph 2 and 3 shall be conducted after the expiry of the five-year period for retaining long-term tangible and intangible assets pursuant to Section 6a paragraph 2 or 3 or, in the case of an investment incentive pursuant to Section 1a paragraph 1 (a) point 1 or 6 that is applied after this period, during the year following the expiry of the last tax period in which the investment incentive pursuant to Section 1a paragraph 1 (a) point 1 or 6 could be applied for the last time. Inspections into compliance with the condition to maintain newly created jobs pursuant to Section 6a paragraphs 2 and 3 shall be conducted 8 years after the date of issue of the Covenant Approval Decision or, in the case of an investment incentive pursuant to Section 1a paragraph 1 (a) point 1 or 6 that is applied after this period, during the year following the expiry of the last tax period in which the investment incentive pursuant to Section 1a paragraph 1 (a) point 1 or 6 could be applied for the last time.

5) Inspections pursuant to paragraph 2 (b) shall be conducted in accordance with special legislation regulating environmental protection.

6) Inspections of investment incentives pursuant to Section 1a paragraph 1 (a) points 3 to 5 shall be conducted after expiry of the period stipulated in the written agreement concluded pursuant to Section 11a or a special legal regulation and inspections of compliance with the conditions referred to in Section 6a paragraph 5 shall be conducted five years after the date on which first payment of material support was received on the account of the beneficiary of the investment incentive.

## **Section 8**

Decision-making under this Act shall follow the Administrative Procedure Code, unless otherwise stipulated by this Act.

## **Section 9**

Repealed

## **Section 10**

1) Investment incentives granted before this Act enters into effect shall remain effective under the conditions and within the extent to which they were granted.

2) The Covenant Approval Decision shall not replace any decision, opinion, statement, consent, assessment or other measure issued by the affected public administration authorities as required by a special legal regulation.

## **Section 11. Authorisation**

The Government shall issue a regulation to implement Section 6 paragraph 1 and 3.

## **Section 11a. Procedure for granting investment incentives in the form of material support for the acquisition of long-term tangible and intangible assets**

1) The Ministry shall provide material support for the acquisition of long-term tangible and intangible assets for strategic investment projects pursuant to Section 1a paragraph 1 (a) point 5 on the basis of an agreement concluded between the Ministry and the beneficiary on whose behalf the Covenant Approval Decision was issued.

- 2) The agreement to provide material support for the acquisition of long-term tangible and intangible assets shall contain:
- a. identification data on the Parties to the agreement;
  - b. a definition of costs that may be reimbursed by the material support;
  - c. the amount of the material support;
  - d. the method and date for providing material support;
  - e. the method and date for settling material support;
  - f. the method of monitoring compliance with the conditions agreed;
  - g. the deadline and conditions for returning the material support or a proportion thereof, if it was drawn or used by the beneficiary in breach of the agreement;
  - h. arrangement for terminating the agreement, including deadlines for its termination.
- 3) The beneficiary has the right to terminate the agreement if the Ministry is over 60 days in arrears with the payment of material support. The Ministry has the right to terminate the agreement if the beneficiary ceases to comply with the general conditions pursuant to Section 2 paragraph 2 or fails to comply with the obligations arising from the agreement.
- 4) Material support for the acquisition of long-term tangible and intangible assets is specifically intended and cannot be used for any purpose other than that specified in the agreement.
- 5) The amount of material support for the acquisition of long-term tangible and intangible assets set out in the agreement can be up to 10% of total eligible costs, depending on the size of the investment project, but to a maximum of CZK 1,500,000,000 in the case of a strategic investment project in the area of manufacture and a maximum of CZK 500,000,000 in the case of a strategic investment project in the area of technology centres. If the scope of the investment project entails the introduction or the expansion of production and at the same time the construction or expansion of a technology centre, the material support provided to the beneficiary pursuant to the first sentence above may be raised to 12.5% of total eligible costs. The amount of material support provided for the acquisition of long-term tangible and intangible assets shall not reduce the value of the eligible costs.
- 6) Failure to comply with the conditions stipulated in the agreement pursuant to paragraph 2 above or failure to return material support by the deadline set shall constitute a breach of budgetary discipline and will result in payments for breach of budgetary discipline in accordance with the budgetary rules.